

CASE No.
155

SOUTHERN DISTRICT

CAYUCOS GRANT

JAMES MCKINLEY

CLAIMANT

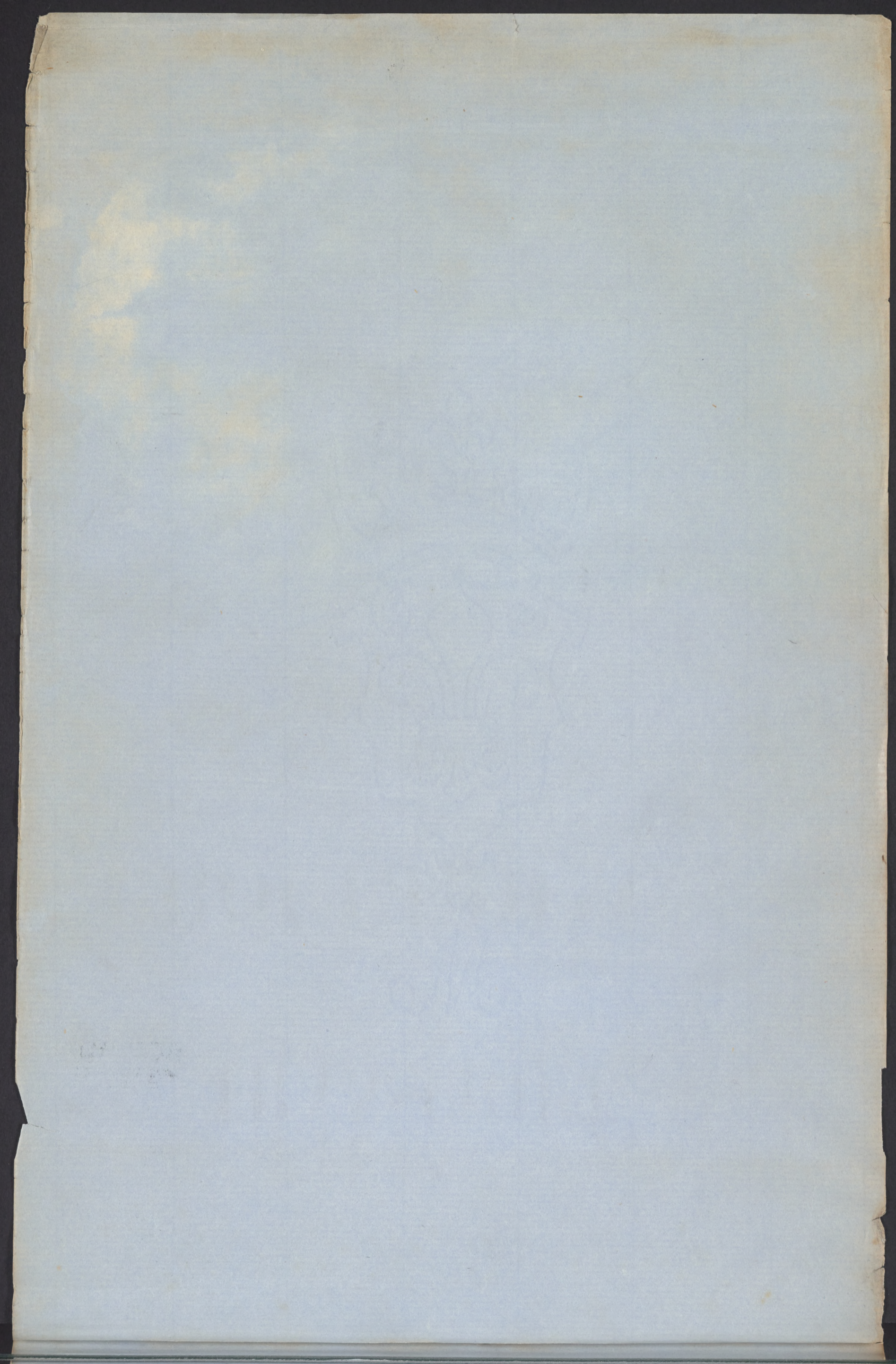
LAND CASE L55 SD pgs. 66

MAR 5 1963

U.S.A.
52 N. COTTON FIBER
BLOAKEN BOND
KODAK SAFETY FILM

327

Booker T. Wash



155 SD
PAGE 1

TRANSCRIPT

OF THE

PROCEEDINGS

IN CASE

NO. 529

James McKinley

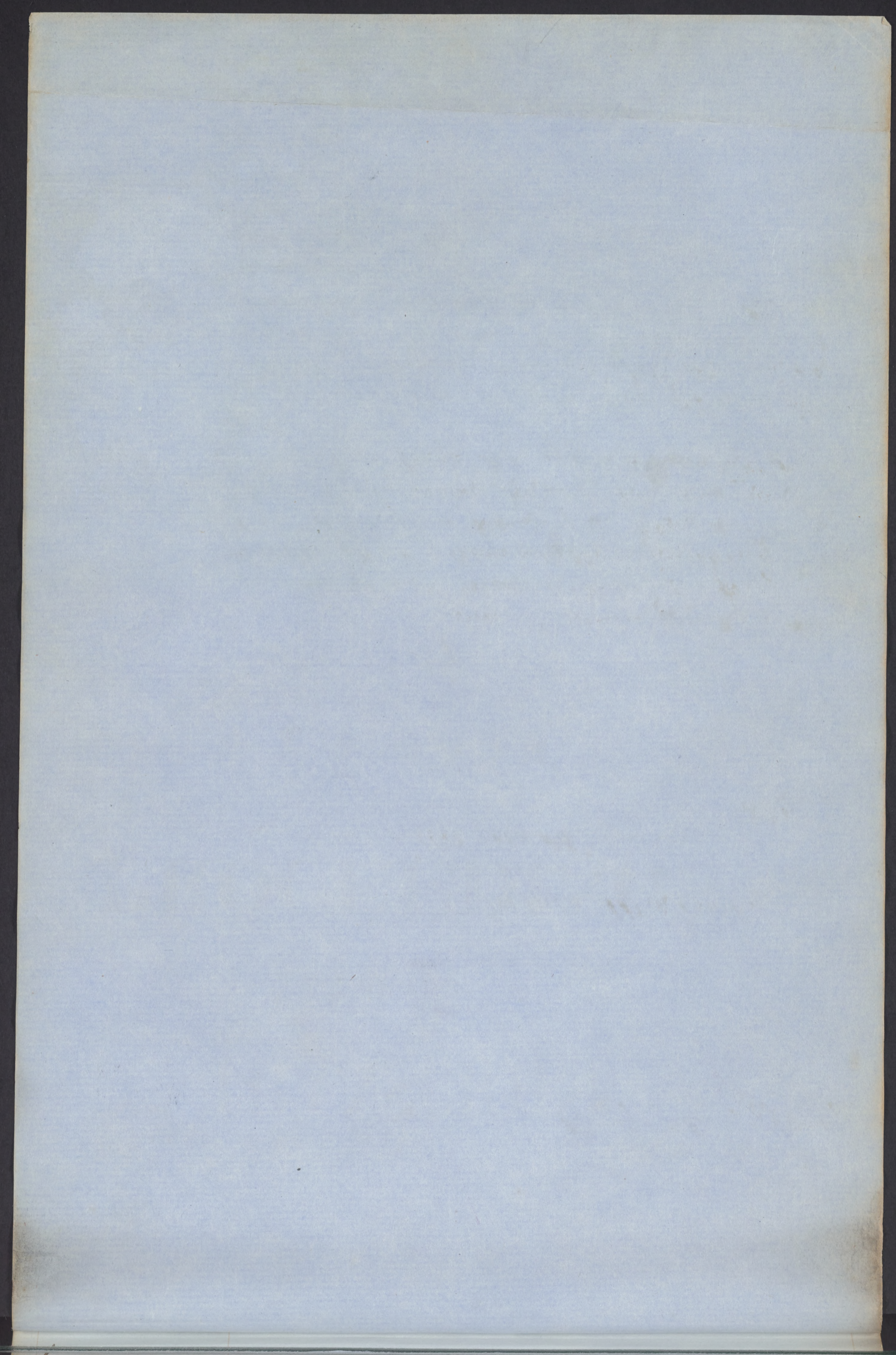
CLAIMANT

VS.

THE UNITED STATES, DEFENDANT,

FOR THE PLACE NAMED

"Caycos."



Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims

IN THE STATE OF CALIFORNIA.

155 SD
PAGE 2

Be it Remembered, that on this *twenty fifth day of January,*
Anno Domini One Thousand Eight Hundred and Fifty-*Three,* before
the Commissioners to ascertain and settle the Private Land Claims in
the State of California, sitting as a Board in the City of San
Francisco, in the State aforesaid, in the United States of America,
the following Proceedings were had, to wit;

The Petition of *James McKinley*
for the Place named
"Cayucos,"
was presented, and ordered to be filed and docketed with No. 529, and
is as follows, to wit;

(Vide page *3* of this Transcript.)

Upon which Petition the following subsequent Proceedings were
had in their chronological order, to wit;

San Francisco, Jan, 29th 1853.
In Case no. 529, James McKinley for the place
named "Moro y Cayucos", the deposition of Francisco
Arce, a witness in behalf of the claimant, taken
before Commissioner Heliana Hall, was filed;

(Vide page 41 of this Transcript.)

In the same case the deposition of Wm E. P.
Martinez, a witness in behalf of the claimant, taken
before Commissioner Mary J. Thornton, with
documents marked B. C. E. annexed thereto
was filed;

(Vide page 5 of this Transcript.)

San Francisco Sept. 15th 1853.
 Case No. 529, called; The Counsel for the claimant
 read the evidence; argued, submitted and taken
 under advisement by the Board.

155 SD
 PAGE 3

San Francisco, April 4th 1854,
 In the same case Commissioner R. Aug. Thompson
 delivered the opinion of the Board confirming
 the claim.

(Vide page 36 of this Transcript.)

San Francisco, Aug. 15th 1854,
 In the same case, on motion of the United
 States Law Agent, the following order was
 made, to wit;

(Vide page 40 of this Transcript.)

3

Petition

To the Honorable Board of
U. S. Land Commissioners
for ascertaining and Settling of
Private Land Claims in the State of California

155 SD
PAGE 4

Your Petitioner James McKinley a resident of the
City and County of Monterey in the State of California
respectfully makes known to your Honorable
Board that he claims a certain tract of land
situate in the County of San Luis Obispo and State
of California and known by the name of Cayucos
and Morro and consisting of two leagues
or sitios de Ganado Mayor and haciendas and
extending from the Portucales of the Morro and
Rancho of Cane to the Cayucos Creek and "the"
Rancho of Raphael Villa and being bounded by
the Sierra and the Playa or Sea Shore and that
he claims the same in fee by virtue of two certain
grants made under authority of the Mexican
Government by John B. Alvarado (constituted as
Governor of the Department of California) as one
to Martin Alvarado and the other to Vicente Felix
each one for one League and haciendas and both
bearing date the twenty seventh of April A D (1842)
each two leagues and haciendas for by two,

A true Copy of both of which
is hereunto annexed and marked A B

And your Petitioner
would further represent to your Honorable Board that
both of said grants (Martin Alvarado and Vicente Felix)
did transfer unto your Petitioner all of their
right title and interest in and to said Land by
Deeds of transfer in due form bearing dates
the one from Martin Alvarado on the 27th of October
1846 and the other from Vicente Felix on the 20th

4

of November A D 1845, a true Copy of both of which
in Spanish is hereunto annexed and marked C

And your Petitioner herewith presents
a correct translation into English of all the before
mentioned Copies as also a duplicate of the
Diagram annexed to the Expediente

And your Petitioner would
further represent to your Honorable Board that
said land has been occupied and stocked with
cattle, that a house and Corral have been built
thereon in compliance with what is prescribed in the
Title and that should your Honorable Board so
desire further proof of title may be made,

And your Petitioner prays your
Honorable Board to take into consideration this
his claim to the aforesaid land, decree his
title to be valid, and confirm unto him the same
and your Petitioner as in duty bound

will ever pray
Jas Mc Kinley

Montgomery Oct 10th 1852

Filed in Office January 28th 1853
Geo Fisher
Secretary

5

Deposition
of
W. E. P.

Hartnell

San Francisco Jan'y 29th 1853

On this day before Comr Henry J Thornton
came Wm E. P. Hartnell a witness in
behalf of the Claimant James McKimby Petition
No 529 and was duly sworn his evidence being
given in English

155 SD
PAGE 6

Deposition of W. E. P. Hartnell in Claim No
529

Witness states that his age is 55 years his place
of residence at present that he is acquainted
with the signatures of Gen Juan B. Alvarado Manuel
Ferrer and Jose Maria Castaneda and that
those signatures written in and upon the documents
now before him were marked B and filed with the
Petition of James McKimby in Claim No 529
in the Office of the Secretary of this Board at the
time and genuine signatures also that he is
acquainted with the signatures of Joaquin
Estrada, Pio Pico and Jose Maria Amella
and that those signatures written in and upon
the documents now before him were marked
C also and filed with the Petition of James
McKimby in Claim No as above at the time
and genuine signatures

W. E. P. Hartnell

All of Law Agent Present

Given to and Subscribed Before me
this 29th January 1853

Henry J Thornton
Comr &c

6

Filed in Office January 29th 1853
Geo Fisher
Secretary

155 SD
PAGE 7

7

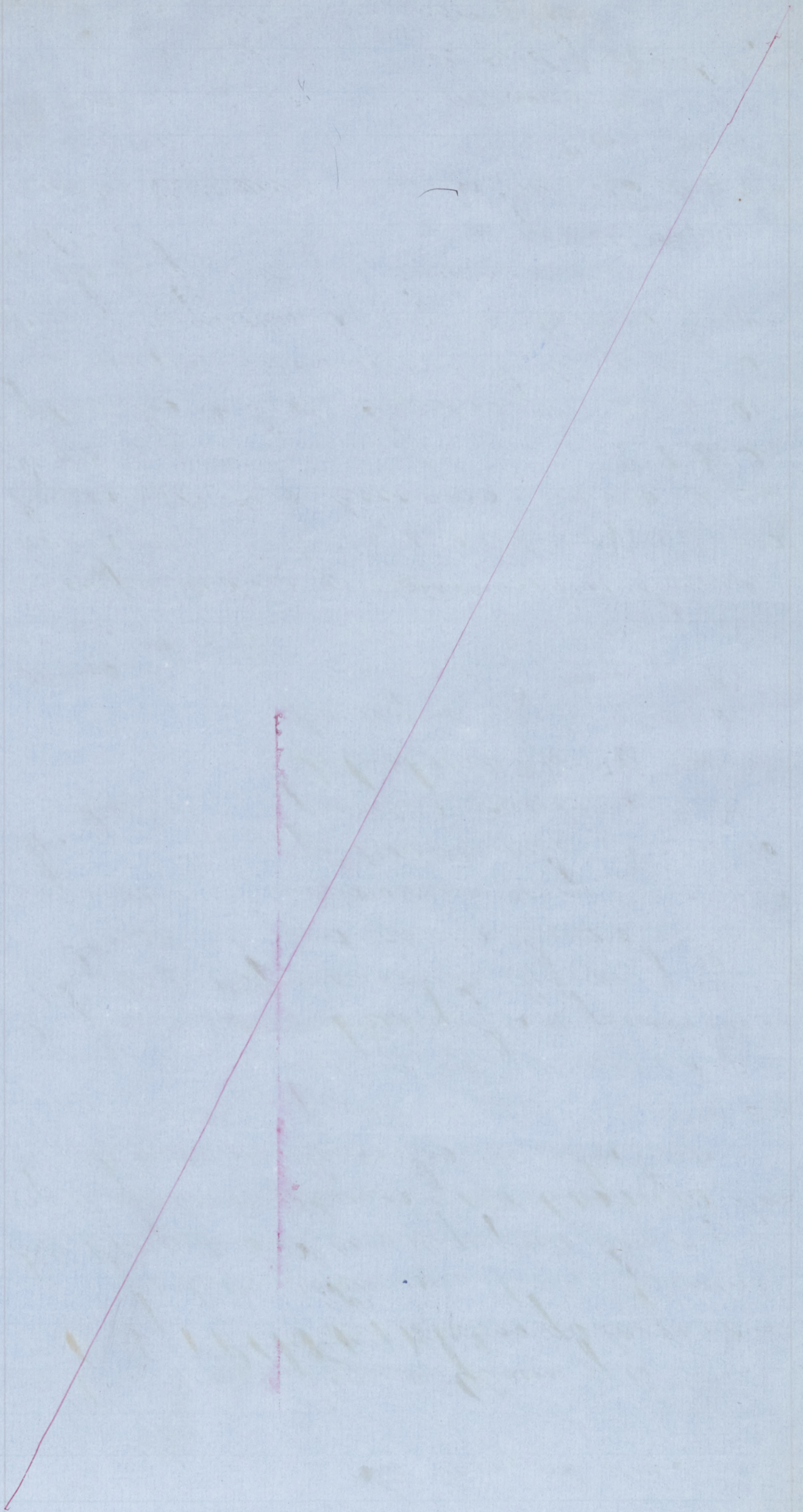
E.

Expediente promovido
p.^a los Ciudadanos Martín Olivera
y Vicente Feliz en pretension del
paraje nombrado Los Bayueros.

155 SD
PAGE 8

1837

200



8
2
1.
Sr. Jefe Político.

Monterrey Marzo
16 de 1839.

Informe el Sr. Prefecto sobre el contenido en esta instancia

Alvarado.

San Juan de los
Rios Mayo 20 de 1839

Consta el informe á f.
4.

Castro.

Martín Olivera y Vicente Felíz vecinos de la jurisdicción de Monterrey ante V. S. con el respecto debido por semejantes y desimios: que habiendo nosotros con unas crecidas familias y en la edad de sesenta años y teniendo trescientas cabezas de ganado, una manada de flequas, y algunos caballos mansos, vivimos en la subsistencia con q. contamos p. sostener nuestras crecidas familias, ocurrimos á la notoria bondad de V. S. con el fin de q. se digno el conse-

derarnos el paraje nombrado Morro, sito en terreno de la Ex. Misión de S. Luis; q. ella no ocupa, y de la q. distará cuatro ó cinco leguas así á la Costa, el cual comprende dos leguas cuadradas, pocas ó mas, segun el diseño q. es adjunto, por tanto A. V. S. suplicamos se sirva tenernos presente en su alta consideracion si así lo allare en justicia q. imploramos en q. recibiremos gracia y merced jurando y lo necesario &c.

Otro sí: á V. S. Duplicamos q. entretanto nuestro Expediente corre los trámites de estilo se sirva aconsejarnos interinamte. con calidad de estar al resultado del mismo modo q. corresponde admitiendonos en el presente papel, por no aver del sello q. corresponde.

155 SD
PAGE 9

3

9
Monterrey 8 de Noviembre de 1837
Martín Olivera,
Vicente Feliz +

4
Sr. Jefe Sup.^o Político. 30

155 SD
PAGE 10

Monterrey Nov.^o 19 de 1837.
Informe del Adm.^o de la Exmision de S.^o Luis obpo. Alvarado

Martín Olivera y Vicente Feliz ante V.S. con el mas debido respeto, se presenta, y dice q. ha ganado poseedor, de doscientas reses, una manada de lieguas, y algunos caballos mansos, y no teniendo un sitio en q. poderlo poner para su aumento, suplico a la V.S. que se designe como el sitio del Moor desde, desde el Segundo Arroyo de S. Luisito, hasta el Arroyo de los Bayucos, linderos del C. Rafael Villa. P. S. A V.S. con el mayor rendimiento suplico se tomen los informes q. sean necesarios p.^a el efecto, de q. recibira gracia, jurando no ser de malicia y lo necesario da.

Mont. 4 20 de Nov. de 1837.
Vicente Feliz.

5. Puede concederse a los interesados el paraje q. en su pedimento expresan siendo de advertir q. no ha de ser del segundo Arroyo de San Luisito. por tenerlo ocupado esta Misión con mil ochocientas cabezas de ganado lanar, asi mismo si los interesados se sugieran a tomar del Moor hasta los linderos del Sr. Rafael Villa, puede concederse por no ocuparlo la Misión.

10

Sion.

S. Luis Obispo 7 de Abril de 1837.
Santiago Moreno.

Monterrey Diciembre 28 de 1837.

En esta fha se expidió á favor de los interesados el decreto que sigue.

Puedan los interesados en esta representacion ocupar los dos sitios de ganado que pretenden intendiéndose dicha concesion en el intermedio que hay del Morro á los linderos del C. Rafael Villar. todo provisionl. sugiriéndose al resultado de la instancia que indican tener pendiente. Alvarado. (H^o)

155 SD
PAGE 11

C

Monterrey Marzo 16 de 1839.

Uniforme el Sr. Prefecto del P. Distrito sobre el contenido en esta instancia Alvarado.

Pueblo de S. Juan de Castro. Marzo 20 1839

El Prefecto de P. Distrito informa que de conformidad con el decreto de 28 de Diciembre de 1837 que puso provisionalmente en posesion á los interesados, debe considerarse la propiedad absoluta del terreno que solicitan desde el Morro hasta los linderos de C. Rafael Villavicencio.

José Castro.

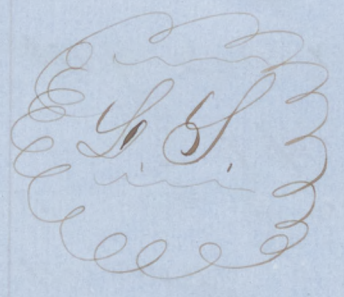
11

Office of the Surveyor General of the United States
for California.

I John C. Hays Surveyor Gen-
eral of the United States for the State of Cali-
fornia and as such having in my charge and
in my custody a portion of the Archives of the
former Spanish and Mexican Territory &
Departments of Upper California by virtue
of the powers vested in me by law do hereby
certify that the six preceding and herewith
annexed pages of tracing paper numbered
from one to six inclusive, exhibit a true and
accurate copy of an Expediente or Document now
on file and forming a part of the said Archives
in this Office.

155 SD
PAGE 12

In testimony whereof I have
herewith signed my name
officially and caused my
Seal of Office to be affixed this
eighteenth day of August 1833
at the City of San Francisco,
Cal.



John C. Hays
Sur. Genl. Cal.

Filed in Office August 26, 1833

(Signed) Geo. Fisher

Seiz
M
B

Translation
of
E

Record of Proceedings instituted by the Citizens
Martin Olvera and Vicente Felix, soliciting the
place called Los Caynes
1837

260-

For Political Chief

155 SD
PAGE 13

The Martin Olvera and
Vicente Felix residents of the jurisdiction of
Montevideo, before Your Honor with all due res-
pect appear and say that finding ourselves with
incessing families and we on averts on
sixteenth year and having three hundred head
of Cattle a drove of horses and some gentle
horses the only subsistence upon which we
depend to support our incessing families we
resort to the well known kindness of your Honor
that you will deign to concede to us the place
named Morro situate in the lands of the Ex-
Mission of S. Luis that the the mission does
not occupy it and that it may be distant
from it four or five leagues towards the Coast
that the same comprises two square leagues
more or less as shown by the annexed (drawing)
Plan,

When you see beseech your Honor will
please bear us as present in its exalted consi-
deration if you thus deem it to be just that which
we supplicate when by we shall receive grace
and favor swearing all that is necessary & c
In the more we beseech of your Honor that
in the meantime we annex to our Case deute
the customary proceedings you will be pleased
to concede to us in the interim the land which
we solicit with condition to remain the same

in the end as Comprovable thro' admitting
our Prayer on this present paper for want of
that of the corruption Army seal

Mon tues 8th November 1837

(Signed) Martin Olvera +
Vicente Feliz +

(The following orders written on the margin of the
pregoing Petition)

Mon tues March 16th 1839

Let the For Prefect report on the contents
of Petition

(Signed) Alonzo de

San Juan de Castro March 20/39

The report appears on Page 4

(Signed) Castro

For Political Chap

Martin Olvera and Vicente Feliz before

your Honor with all due respect presents himself

Mon tues Nov and says that finding himself possessed of two
19/837 Let the Guardia head of Cattle of a drove of mares and
adm mistreat of some gentle horses and not knowing a place where
of San Luis Abipon to put them and in case them I appeal to
report

Alonzo de

the upright justice of your Honor that you will
deign grant me the place called Surro from the
second creek of S. Luisito as far as the Creek of
the Conucos boundary of the Citizen N of all
Villa

Therefore I most humbly entreat your
Honor to take the necessary informations in
the matter whereby I shall receive favor and may
this not to be done in malice and all that is
necessary + c

Mon tues 20th November 1837

(Signed) Vicente Feliz

There can be granted to the interested parties
 the place which they mention in their Petition
 notifying them it cannot be compressed be-
 yond the second Creek of San Luis in as
 much as this Ex Mission occupies the same
 with one thousand eight hundred head of Sheep
 whome if the interested parties submit to taking
 possession of the Morno as far as the boundaries
 of the Don Rafael Villa it can be granted
 to him since the Mission does not occupy it
 J Luis Obispo 7 December 1837
 (Signed) Santiago Moreno

155 SD
 PAGE 15

Montevideo December 28th 1837
 In this date the following decree was issued in
 favor of the Petitioners, The interested parties
 in this Petition may occupy the two leagues they
 solicit said concession to be understood to be
 of the inter mediate land by my from the Morno
 to the boundaries of the Citizen Rafael Villa this
 is for the time being and they are to be subject to
 the result of the Petition which they show to be
 pending

Signed Alonzo

Montevideo March 16th 1837
 Let the Don Prefes of the 1st District report on
 the contents of this Petition

Signed Alonzo

Pueblo of San Juan de Castro

March 20/39

The Prefes of the 1st District reports that in
 conformity with the decree of 28 Decr 1837
 he has provisionally put the Petitioners in possession
 that there should be granted them the absolute
 ownership of the land which they solicit from
 the Morno as far as the boundaries of the

13

Citizen Rafael Villarreal
Siquia Sou Castro

Filed in Office August 26th 1853
Geo Fisher
Secretary

155 SD

PAGE 16

B.

Annexed to the
Deposition of
M. E. P. Cartmell.

155 SD
PAGE 17

Sello Fincero Das Reales.

Habilitado provisoriamente por la Aduana Mex-
ritima del Puerto de Monterey en el Departamento
de las Californias para los años de mil ochocientos
cuarenta y mil ochocientos cuarenta y uno.

Abarado

Antonio Maria Osio.

Habilitado por la misma para
el año de mil ochocientos cuarenta y
dos.

Abarado.

Antonio Maria Osio.

Juan B. Abarado Gobernador Constitucional
del Departamento de las Californias.

Por cuanto el Ciudadano Martin Olivera ha
pretendido para su beneficio personal y el de su fa-
milia el paraje conocido con el nombre de el Nono,
colindante con el Portezuelo del mismo nombre, con la
Sierra, la Playa y el punto sentricio del ter-
reno del Arroyo del Toro á la Canada de la Ordoña;
practicadas previamente las diligencias y averigua-
ciones consiguientes segun lo dispuesto por leyes y reg-
lamentos; usando de las facultades que me son confe-
ridas á nombre de la Nacion Mexicana, he tenido un
concederle el terreno mencionado declarandole la pro-
piedad de el por las presentes letras y sugeriendose
á la aprobacion ó des aprobacion de la Junta
Departamental y á las condiciones siguientes.

1^a No podrá vender ni enagenarlo.

2^a Podrá cercarlo sin perjuicio de las trayasias
caminas y ser vid unidos; le disfrutará libre y exclu-
sivamente destinandole al uso ó cultivo que mas le
acomode pero dentro de un año fabricará casa y estará
habitada.

17

3^a El terreno de que se hace donacion es de un sitio de ganados mayor poco mas o menos segun explicen el diseno que corre agregado al expediente respectivo. El juez que diere la posesion lo hará medido conforme a ordenanza quedando el sobrante que resulte a la nacion p.^a los usos convenientes.

155 SD
PAGE 18

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterrey, en el Departamento de las Californias, para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Alvarado. Antonio Maria Osio.

Rehabilitado por la misma para el año de mil ochocientos cuarenta y dos.

Alvarado. Antonio Maria Osio.

4^a Cuando se le confirme la propiedad solicitará del juez respectivo que le dé la posesion juridica en virtud de este Despacho por el cual se demarcarán los linderos en cuyos limites se pondrán las mojones o algunos arboles frutales o selvestres de alguna utilidad.

5^a Si contraviniere a estas condiciones perderá su derecho al terreno y será denunciabile por otro.

En consecuencia mando que teniendo por firme y valido este titulo se tome razon de el en el libro a que corresponde y se entregue al interesado para su resguardo y demas fines. Dado en Monterrey a veinte y siete de Abril de mil ochocientos cuarenta y dos.

Juan B. Alvarado.
Man. Jimeno
Osio.

Queda tomada a razon de este Despacho en el libro de asientos sobre adjudicacion de terrenos baldios a f.^o 11.
Jimeno.

El Excmo. Sr. Gobernador ha dispuesto se tome razón de esta concesion en la Prefectura del 1º Distrito.
Jinena.
Tomese #

Sello Trucero Dos Reales.

155 SD
PAGE 19

Habilitado provisionalmente por la Aduana Maritima del puerto de Monterrey en el Departamento de las Californias para los años de mil ochocientos cuarenta y mil ochocientos cuarenta y uno.

Alvarado. Antonio Maria Osio.

Rehabilitado por la misma para el año de mil ochocientos cuarenta y dos.
Alvarado. Antonio Maria Osio.

Juan B. Alvarado Gobernador Constitucional del Departamento de las Californias.

Por cuanto el Ciudadano Vicente Feliz ha pretendido para su beneficio personal y el de su familia el paraje conocido con el nombre de Los Cayucos, colindante con la Sierra, con la Playa, con el punto central del terreno de la Canchada de la Ordena al Arroyo del Toro; practicadas previamente las diligencias y averiguaciones concernientes segun lo dispuesto por leyes y reglamentos; usando de las facultades que me son conferidas a nombre de la Nacion Mexicana he tenido en concederle el terreno mencionado declarandole la propiedad de el por las presentes letras sujetandose a la aprobacion de la Comision Junta Departamental y a las condiciones siguientes.

1ª No podra venderlo enajenarlo ni pasarlo a manos muertas.

2ª Podra cercarlo sin perjudicar las trayectas Caminos y Servidumbres; lo disfrutara libre y esclusivamente destinado al uso o cultivo que mas le acomodo

pero dentro de un año fabricará casa y estará habitada
3^a El terreno de que se hace mención es de un
sitio de ganado mayor segun explica el diseño que corre
agregado al expediente respectivo. El juez que diere la
posesion lo hará mediu conforme á Ordenanza, quedando
el sobrante que resulte á la Nacion para los usos convenientes.

4^a Quando se le confirme la propiedad solicitara
del juez respectivo que le dé la posesion juridica en virtud
de este despacho por el cual se demarcarán los linderos
muyos =

155 SD
PAGE 20

Sello Tercero Dos Reales.

Habilitado provisionalmente por la Aduana Mari-
tima del puerto de Monterrey, en el Departamento de
las Californias, para los años de mil ochocientos cua-
renta y mil ochocientos cuarenta y dos.

Alvarado. Antonio Maria Esio.

Rehabilitado por la misma para el año
E. S. de mil ochocientos cuarenta y dos.

Alvarado. Antonio Maria Esio.

—Lindes pondrá arboles de las mojoneras algunos ar-
boles frutales ó silvestres de alguna utilidad.

5^a Si contraviniere á estas condiciones perderá
su derecho al terreno y sera denunciabile por otro.

En consecuencia mando que teniendo por firme
y valido el presente se tome razon de el en el libro de
que corresponde y se entregue al interesado para su
resguardo y demas fines. Dado en Monterrey á veinte
y siete de Abril de mil ochocientos cuarenta y dos.

Juan B. Alvarado.
Nobit. Jimeno
Esio.

Queda tomada razon de este Despacho en el libro de asi-
entos sobre adjudicacion de terrenos baldios á faja N.
Jimeno.

20

El Excmo. Sr. Gobernador ordena se tome razon
de esta concesion en la Prefectura del 1^o Distrito.
Jimeno.

Tomese razon
Estrada.

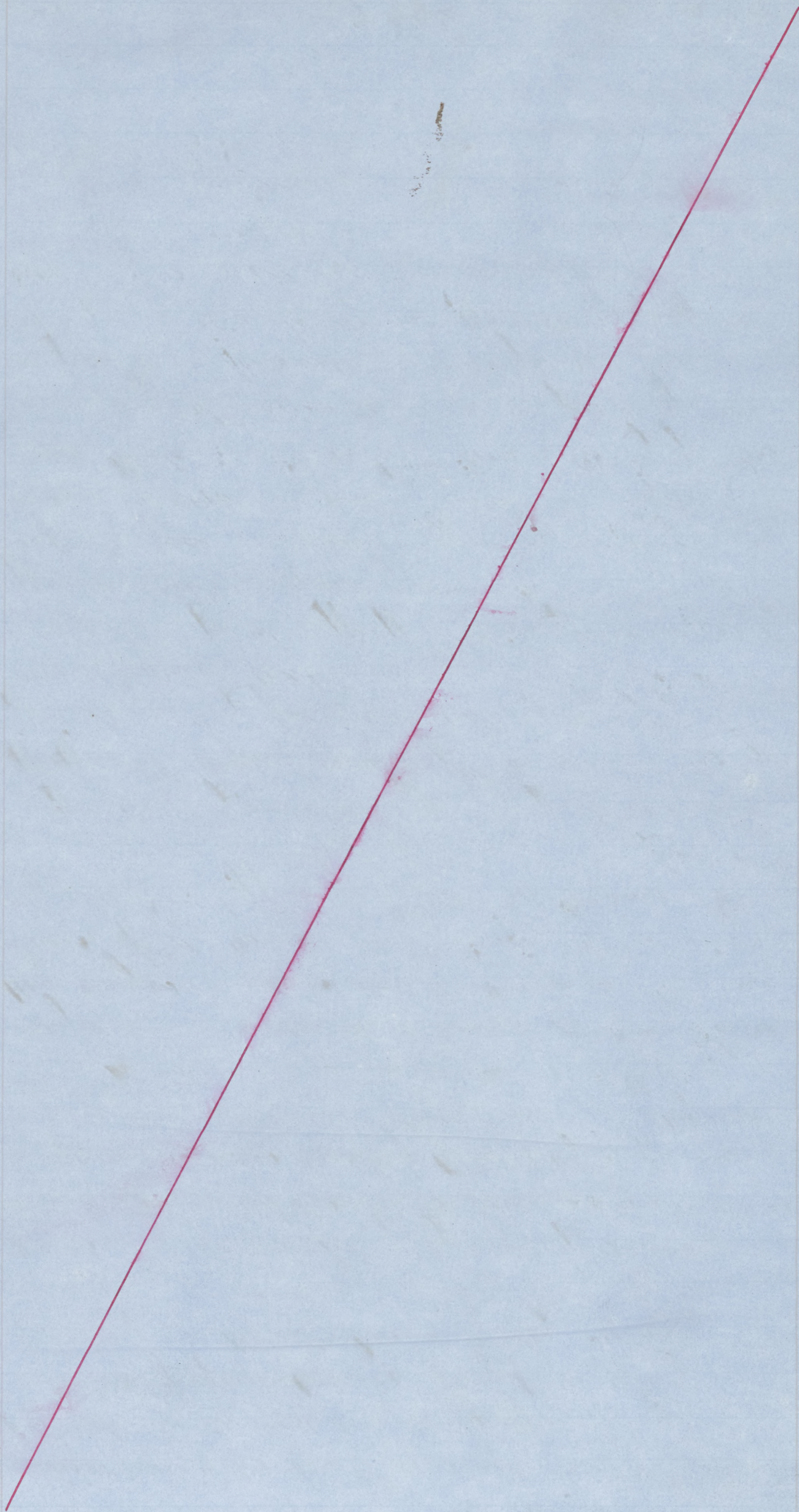
155 SD
PAGE 21

Queda tomada razon de este Superior
Titulo a f. 3^a y 4^a del Cuaderno respectivo
Monterrey Mayo 2 de 1842.
Jose Maria Castañeda.
Srio. Int.

Filed in Office Jan 28th 1853.
(Signed) Geo. Fisher,
Scrij.

PAGE

20



C.
Annexed to the
Deposition of
N. E. P. Cartmell

155 SD
PAGE 22

En el Pueblo de San Luis Obispo de la Sta California á los veinte dias del mes de Noviembre del año de mil ochocientos cuarenta y cinco ante mi Joaquin Estrada Juez 1º de este punto fueron presentes Dn Vicente Feliz vecino del mismo y Dn Santiago McWinklay cuyas personas doy fe conosco y dijo el primero q. p. si y á nombre de sus hijos herederos y sucesores y quien de ellos hubiere título voz y fama en cualesquiera manera hace cesion al segundo de un terreno en la estacion de un sitio de ganaderia mayor conocido con el nombre de San Sebastian cuyos linderos son el Arroyo de los Calucos p. el Rancho de Dn Rafael Villa, el Arroyo del Toro p. el de Dn Martin Olivera, la playa y la Sierra, p. motivo de no poder ocupar el otorgante aunque le pertenese en propiedad segun consta p. los documentos q. presento q. doy fe haber visto y se agrupan á esta escritura, declarando q. esta libre de todo goaburno publico perpetuo temporal especial general tacito y expreso y como tal se lo da p. q. disfrute goce cambie enageno y disponga de el como de cosa suya adquisicion con legitimo y justo título, recibiendo Dn Vicente Feliz p. esta cesion la gratificacion de un mil pesos y sobre no parecer de presente la subeiga renuncia las leyes de ello, las de su prueba y pago del recibo como en ella se contiene y desde hoy en adelante se desapodera desiste quita y aparta del dominio y posesion señorio título y recurso de otros cualesquier derecho q. le compete al renunciado terreno y lo renuncia y traspassa á Dn Santiago McWinklay p. q. disponga de el como de cosa propia y le confiere poder irrevocable.

rocable con libre franca y general administracion, obligandose el otorgante a que esta cesion le sera cierta segura y efectiva y nadie le inquietará ni moverá pleito alguno sobre su propiedad y posesion ni contra el terreno aparecerá goabamen alguno y a la validacion y firmaza de todo lo referido obliga el otorgante sus bienes presentes y futuros y con ellos se somete al fuero y jurisdiccion de los Srs. Jueces q. de sus causas deban conocer como p.^a sentencia definitiva consentida y pasada en autoridad de cosa juzgada y p.^a tal la recibe. En cuyo testimonio asi lo otorgó y firmó ante mi y los de asistencia con quienes actuo en la forma establecida p.^a falta de escribano publico, siendo los testigos instrumentales Sr. Inocente Garcia, y Sr. Tomas Herrera presentes y vecinos del lugar de q. yo el referido juez soy p.^a — Por un haber papel sellado se extendió la presente en comun — Joaquin Estrada — Por Sr. Vicente Felix Jose Marian Bonilla — as.^a Jose Marian Bonilla — as.^a Rafael Pico.

Es copia de su original sacada fielmente a la letra p.^a mi el juez 1.^o de este Puerto.

San Luis Obispo Noviembre 20 de 1845.
Joaquin Estrada.

Copia de la venta del Rancho San Sebastian en la costa de San Luis Obispo de un sitio de ganado mayor.

E. L. P. 3

Vamos Sr. Gobernador.

Martin Olvera vecino de San Aug.^o Cal. 27/24. Luis Obispo ante v. e. con el mas leal y sumiso respeto compareco y digo: consideracion los que hallandome muy abansado

motivos que es- de edad, y sumamente escaso de
poner la parte fortunas para sostener á mi
que represento un individuo y familia como de con-
esta instancia siguiente espuestas nuestras vidas
se le concede la y el muy corto interés de bienes de
gracia que soli- campo que hasta ahora se conser-
cito y puede pro- van con mil afanos por la pu-
ceder desde luego secucion obstinada que los indios
á la venta del ter- nos hacen, suplico á V.E. se me
rendo que dice de conceda vender el rancho que pu-
su propiedad. tener á mi favor llamado la

Pico.

Rancho del Corral de las Chichic-
guas al Morro, y como intento
radicarme con mi familia en esta
Ciudad de los Angeles, espero de la mano protec-
tora de V.E. no temera firmar el decreto como
pido. Por tanto á V.E. reitero mi suplico
á fin de que convinga á mi solicitud pues
nullo recibirá gracia juro &c. recibaseme
este en papel común por no haber de sellado.

Ang. Enero 27 de 1846.

Por no saber firmar hizo una
señal de cruz.

Martin Olivera,

En el Pueblo de San Luis Obispo de la
Alta California, á los veinte y seis dias del mes
de Octubre del año de mil ochocientos cuarenta y seis
por ante mi Jose Maria Bonilla Juez de Paz
de este Punto y su Demarcacion y los testigos de
asistencia con quienes actuo en la forma estable-
cida p.^a falta de Escribano Publico fueron pre-
sentes D.^o Martin Olivera vecino del mismo y
D.^o Santiago Makinda á quienes doy fe conosci
y dijo el primero: q. por si y á nombre de sus

herederos y sucesores y de quien de ellos hubiere título o por y fama en cualesquiera manera, dan venta legal y imaginacion perpetua al segundo el terreno de su propiedad conocido con el nombre de Morro, cuya estension es de un sitio de ganado mayor poco mas o menos y colinda por el S.O. con el Portezuelo del mismo nombre con D^{na} Vicente Canet, por el N.O. con el punto central del terreno del Arroyo del Toro a la Cañada de la Ordena, p^o el S.O. con la Playa y p^o el N.E. con la Sierra segun manifiestan los documentos q^e presento y doy q^e haber visto y se agregan a esta escritura, declarando q^e el dho. terreno esta libre de todo gravamen publico, perpetuo, temporal, especial, general, tacito y expreso, y como tal lo da p^o q^e lo disfrute, goze, cambie, imagine y disponga de el como de cosa suya adquirida con legitimo y justo titulo recibiendo Olivera p^o precio el valor de suscientos treinta y cuatro pesos obligandose a amos D. Santiago Mackinla a entregar p^o Olivera a Luis Pomber cuarenta y cinco Vaquillas y una vaca parida, y diez reses a D. Mariano Macario Castro y sobre no parer de presente la entrega renuncie Olivera las leyes de ella, las de su prueba y pago de recibos como en ella se contiene y desde hoy en adelante se desapodera desiste quite y aparta del dominio y posesion, tenorio, titulo, recurso u otro cualquier derecho q^e le compete al enunciado terreno y lo renuncie y traspasa a D. Santiago Mackinla p^o q^e disponga de el como de cosa propia y le confiere poder irrevocable con libre franca y general administracion, obligandose el otorgante, a q^e esta cesion le

será cierta, segura y efectiva y q. nadie lo inquietará ni moverá pleito alguno sobre su propiedad y posesion, ni contra el terreno aparecerá gravamen alguno. Y á la validacion y firmeza de todo lo referido obliga el otorgante sus bienes presentes y futuros y con ellos se somete al fuero y jurisdiccion de los Señores Jueces q. de sus causas deban conocer como p.^{te} sentencia definitiva consentida y pasada en autoridad de cosa juzgada y p.^{te} tal lo recibe. En cuyo testimonio así lo otorgó y ~~firmó~~ ^{firmó} saber firmar hizo una Cruz, firmando yo con los de asistencia, siendo testigos instrumentales D. Yuseunte Garcia y D. Joaquin Estrada presentes y vecinos de q. yo el referido juez doy fé = Por no haber papel sellado se extendió la presente en comun = Martin Olivera = Jose Mariano Bonilla = de asist.^a Vicente Bonilla = de asist.^a Mercural Garcia.

Es copia sacada fielmente de su original q. existe en el Archivo de este juzgado: confrontado, corregido y concertado.

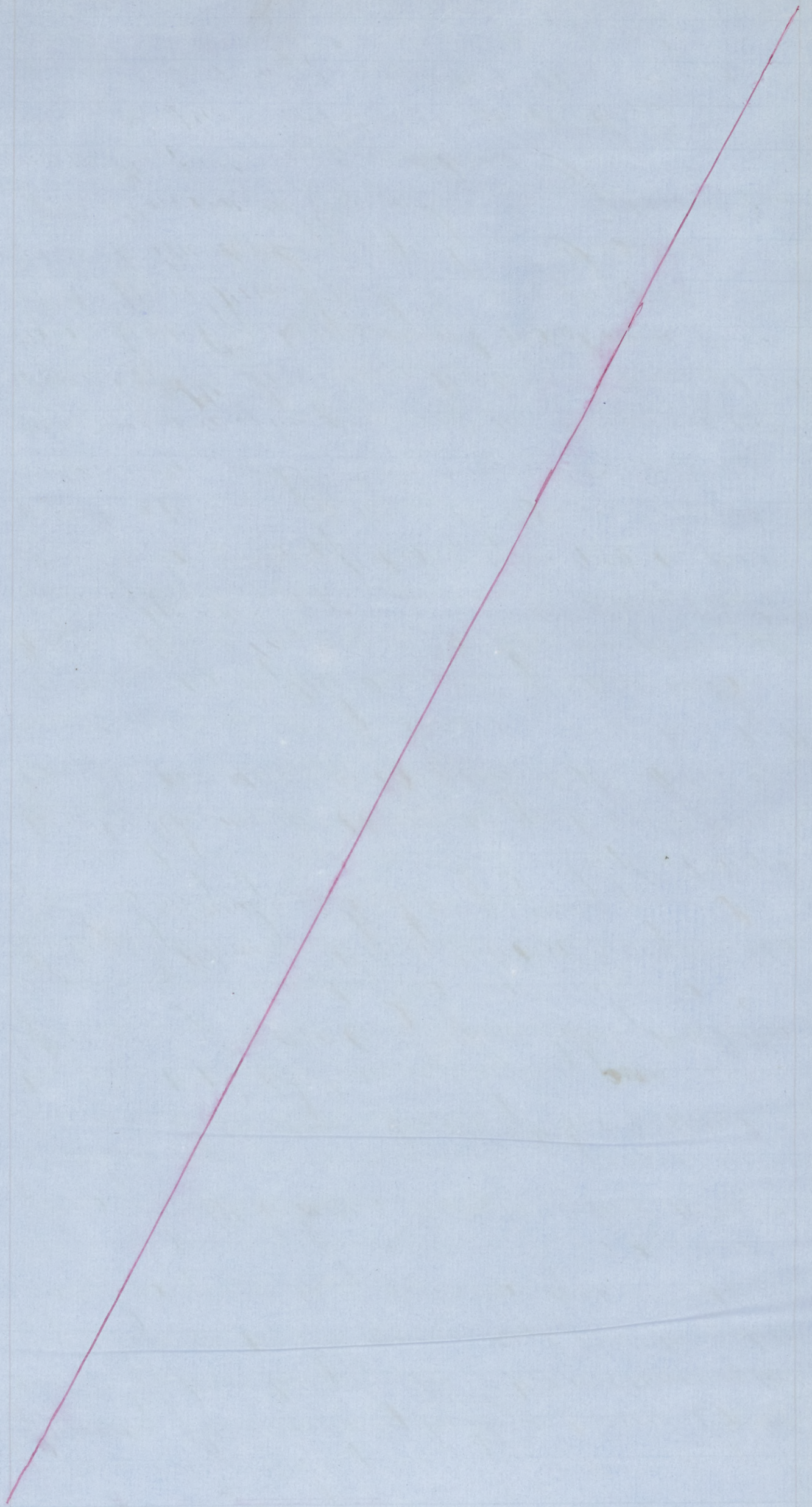
S. Luis Obis. Oct.^o 27 de 1846.

J. Mariano Bonilla.

Filed in Office Jan'y 28 1853.

(Signed) Geo. Fisher

Secretary



1000

26 D

Translation Stamp Third Two Rials

Provida Provisionally by the Provisional Custom
House of Monterey in the Department of the
California for the years eight hundred
and forty one eight hundred and forty
one

155 SD
PAGE 27

(Signed) Alvarado (Signed) Auto Ma Oser

Revised by the same for the year eight hundred
and forty two

(Signed) Alvarado (Signed) Auto Ma Oser

John B. Alvarado Constitutional Governor of
the Department of the California

In as much as the Citizen
Martin Alvarado has brought for his own personal
benefit and that of his family the locality
known by the name of Murro bounded by the
Portonils of the Murro and by Camp by the
Sierra the Playa and the Central point of the
Land of the Camp del Toro at the Dairy Canada
the necessary steps having been taken and
information concerning the same obtained
as laid down in the laws and regulations
making use of the forms on me comprised in the
venue of the Mexican Nation I have granted
unto him the before mentioned Land declaring
it by these presents to be his property sub-
ject to the approbation or disapprobation
of the Honorable Departmental Assembly and
under the following conditions

First He shall not sell it nor alienate it

Second He may fence it in without stopping
up the high ways bye ways and Interoads

he in any way or in any manner, or exclusively, in any manner, use of it for cultivation or in what ever way or in any best land him, but within one year he shall build a house there on and live it in habit to a third. The land of which donation is made is one lot in de Guacabo Mayor a lot to more or less according to the Diagram annexed to the respective Expediente. The Judge who in any give possession will have it measured according to the measure the simplest age remaining to the nation for its convenient uses.

From the so soon as the property is confirmed to him he shall request of the respective Judge to give him judicial possession in virtue of this Dispatch by whom will be designated the boundaries at the limits of which shall be placed the land marks or some fruit trees or other trees of some utility.

Fifth should he contravene these conditions he will lose his right to the land and it will be denounced by another.

Consequently for that the present being taken for a final and valid title it be noted on the respective book and delivered to the interested party for his own safety and other uses.

Given at Santiago on the twenty seventh day of April a D eight hundred and forty two

(Signed) Don B. Monada
(Signed) Manuel Jimin
Santiago

Noted this Dispatch on the Book of Asientos on the adjudication of vacant lands at page 11. (Eleven)

(Signed) Jimin

His Excellency the Governor has ordered that this
 Concussion be recorded in the Public time of the 1st
 District (Signed) Jimeno

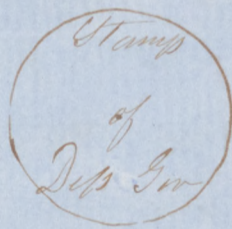
155 SD

PAGE 29

To His Excellency the Governor
 I Martin Olvera a resident of San Luis Obispo
 before your Excellency with the greatest respect
 appear and say that finding myself far advan-
 ced in years and of an exceeding scanty fortune
 for the subsistence of myself and my family
 the obstinate persecution of the Indians having
 left me but a little stock of Cattle and our
 lives being consequently exposed on to all your
 Excellency to grant me permission to sell the
 Rancho belonging to me called the Canada
 of the Much Cross Corral of the Morro and
 as I intend to establish myself with my family
 in Los Angeles, I hope for the protecting hand of
 your Excellency in order that you may assent to
 my solicitude. When by I shall receive from
 you an order on this common paper in the absence
 of stamped in Los Angeles on the 27th of June
 A.D. 1846

Not knowing how to write my name I made
 the mark of the Cross

Martin Olvera +



Order of his Excellency the Governor
 Angeles January 27th 1846

Having taken into consideration the motives set
 forth by the interested party in this Instance the
 favor solicited by him is hereby granted and
 he can proceed forth with to sell the land spoken
 of as his property

(Signed) Pico

155 SD
PAGE 30

In the Town of San Luis Obispo, Upper California
on the twenty sixth day of October eighteen hundred
and forty six before me Jose Maria and Benito Justice
of the Peace of this Place and of its demarcation
and before the witnesses of assistance with whom
I operate in due form in the absence of a Notary
Public came Martin Olvera a resident of the
same place and James Mc Kinley both of whom
are known to me and the former said that for
himself and in the name of his heirs and
successors and who ever of them might have right
say or claim in any manner, he sells
lawfully and in perpetual alienation to the
latter the land of his property known by the
name of the manure in extent one Sitio de ganado
mayor a little more or less and bounded on the
South East by the Portucales of the same name
and by Arroyo Cano on the north west by the
central point of the land of the campo del Toro
at the milking Cañada on the South west by
the Sea Beach and on the north East by the
Quina as expressed in the papers presented by
him unto me and which now go annexed to
this instrument he declaring that the afore
said land is free from all incumbrance
public perpetual or temporal special or
general understood or expressed and that as
such he sells it in order that it may be enjoyed
or changed alienated and made use of as
his own acquired by just and legal title
Olvera receiving as the just price thereof the
sum of Six hundred and thirty four dollars
and James Mc Kinley binds himself to pay
(susidas) on behalf of Olvera to Luis Pombo forty
five buxas and one can and calf and to Mariano
Macario Castro ten cows and to road being

present at the delivery Olivia de normas the laws
of allowing the proof of it and the receipt of payment
as therein contained and from this moment he
leaves off debts and quits all claim in possession
an thing claim and every other right he may have
to the before mentioned land and premises and
transfers the same to James McHindley in order
that he may dispose of it as his own and hereby
confers upon him irrevocable power with full
and general administration the undersigned being
bound that thiscession shall be certain true and
effective and that no person shall disturb him
nor molest by suit his possession or property nor shall
there be any incumbrance what ever to the above said
land

And for the security of all the above and the
undersigned binds himself by all the property which
he now has or may here after possess and thus submits
to the decision and jurisdiction of the Courts and Judges
who ought to know about such matters as a definitive
decision upon a subject already adjudged and
passed upon

In testifying where of the undersigned
thus signed by making the sign of the Cross not
showing him to write his name and I with my
brothers of assistance sign the Instrument the
witnesses being Vicente Garcia and Joaquin
Estrada both neighbors and present and known
to me as such

In the absence of stamped paper this was
done on common paper

Martin Olivera

José Mariano Benilla

Asst witness

Vicente Benilla

Asst witness

Marcial Garcia

A true Copy of the original now on file in the
Municipal Archives of this City and Examined
and corrected

San Luis Obispo 27 Oct. 1846
(Signed) Jose Mariano Bonilla

Stamp Tierra Tres Riales

Proceeded Personally by the Maritime Custom
House of the Port of San Luis in the Department
of the Californias for the years eighteen hundred
and forty and forty one

(Signed) Alonzo (Signed) Ant^o Ma. Oser
Colonel Alonzo Constitutional Governor of the
Department of the Californias

In as much as the Citizen Mateo
Feliz has besought for his own personal benefit
and that of his family the locality known by
the name of the Cayucas bounded by the Sea
by the Playa or Beach by the central part of the
Lana of the Damij Cañada at the Arroyo del Torp
the necessary steps and informes concerning the same
having been previously taken in conformity with
"what" is laid down in the laws and regulations
making use of the powers conferred upon me in
the name of the Mexican Nation I have granted
unto him the before mentioned land and by these
presents declare it to be his property being subject
to the approval or disapproval of the Honorable
Departmental Assembly and to the following
conditions viz

First He shall not sell it nor alienate it nor
pass it into mortmain

Secondly He may fence it in but without pre-
judice to the high ways by ways and Simtedes
he may enjoy it fully and exclusively making use of
it either for cultivation or in what ever way he may

155 SD
PAGE 32

find most convenient but within one year he shall build a house there and have it inhabited

Thirdly The land of which mention is made is one Sitio of Gomara Mayor according to the diagram annexed to the Expediente (respectively)

The Judge who may give possession will leave it measured according to the ordinance the disputes that may result remaining to the Nation for its convenient use

Fourthly So soon as confirmed (this property) he shall request of the respective Judge that judicial possession be given unto him by whom shall be designated the boundaries at the limits of which he shall plant, besides the land marks some fruit trees or other trees of some utility

Fifthly Should he contravene these conditions he will lose his right to the land and it will be alienable by another

Consequently I order that these presents being taken for a good and valid title a record may be taken of it on the respective Book and that it be delivered to the interested party for his safety and other ends

Given at Montevideo on the 27th day of April Eighteen hundred and forty two

(Signed) John B. Alonzo (ya) Manuel Jimenez
Secretary

A note of this Despatch has been made upon the Book of adjudication of vacant lands at page 11 (elerm) (Signed) Jimenez

His Excellency the Governor orders that a note of this concession be taken in the Prefecture of the First District (Signed) Jimenez

Let a note be made of it (Signed) Estrada
 A record of this Superior Title has been made at
 page five (Cinco) in of the respective Book
 (Signed) Jose Maria Castaneda
 Secretary and interim

Montes 2^{na} May 1842

In the Town of San Luis Obispo of Upper California
 on the twentieth day of the month of November in the
 year eighteen hundred and forty five, before me
 Joaquin Estrada the first Judge of this part
 came Vicente Felix a resident of this place and
 James McWintley both of whom are known to me
 and the former said that for himself and in the
 name of his sons hims and successors and who
 ever of them might have title sayor (claim in any
 way he cedes to the latter a tract of land in extent
 one lot of Genoa de Mayor known by the name of
 San Sebastian bounded by the Coyacas Creek by the
 Ranch of Raphael Villa the Arroyo del Toro the
 Ranch of Martin Alvarado the Sea Shore and the moun-
 tain, because the present signed cannot occupy it
 although it belongs to him as well appear from
 the papers now present to me and he with him
 said and he declares that it is free from all incumbrance
 public perpetual and temporary special and general
 solvent and ex prosequa and as such he gives it
 in order that it may be disposed of conveyed or
 changed and alienated by him as a thing of
 his own ac quida by a just and legitimate
 title according Vicente Felix as a compensation
 for said cession the sum of one thousand dollars
 and without being present at the delivery he ren-
 ounces the laws of delivery and of its proof and
 receipt of payment as therein specified and
 hence forth forever desists and leaves off all
 dominion and possession sovereignty title and

of course whatever and all rights which he might
 have to the before mentioned land and transfers
 the same to James In Kinsley that he may dis-
 -pose of it as his own and he confers upon him full
 power irrevocable with full and general adminis-
 -tration the undesignated being obliged and bound
 that this transfer shall be certain and effective
 and that no one shall disturb him in the possession
 of the same nor enter suit against him in ac-
 -count of said property nor shall there appear
 any encumbrance whatever on said land and
 for the validity of all the foregoing the undesignated
 binds himself ^{together with} with the property which he
 now has or may hereafter possess and with them
 submits to the jurisdiction of the Courts and Judges
 who ought to know about such matters and consents
 that the same shall be considered as a definitive
 sentence of a thing already adjudged and paid
 upon

In testimony of which he thus signed and
 acknowledged before me and the witnesses of
 assistance with whom I operate in due form in
 the absence of a Notary Public being the Instru-
 -mental witnesses Don Antonio Garcia and Thomas de
 -vora present and residents of this locality and
 known to me the before mentioned Judge the present
 being on common paper in the absence of stamped
 Joaquin Estrada Don Vicente Felix Jose Mariano
 Bonilla

Asst Asst
 Jose Mariano Bonilla Raphael Pico

A true copy faithfully taken from its original
 -al to the letter by me the 1st Judge of this Town

San Luis Obispo 20 of November 1845
 (Signed) Joaquin Estrada

35

Filed in Office January 28th 1853
Geo Fisher
Secretary

155 SD
PAGE 36

Opinion
of
the Board

Case No 529

James McKimley

vs
The United States

vs
Morrow of Cayucas

Claim for two square

leagues of land in the
County of San Luis Obispo

The true copy of the ~~deposition~~ from the Archives filed in this case shows that on the 8th of November 1837 Martin Olivera and Vicente Felix presented their Petition to Governor Alvarado for a grant of the tract of land called Morro of the extent of two square leagues formerly occupied by the Mission of San Luis.

On the 20th of the same month Vicente Felix presented his separate Petition praying for that portion of the land extending from the Second Creek of San Luis to as far as the Creek of the Cayucas boundary of the Citizen Rafael Villa.

Upon these Petitions the Governor issued a decree granting them jointly a provisional right of occupation in the lands prayed for subject to the result of the final action of the Government in relation to their application; This decree is dated December 28th 1837. There appears to have been no further action in the matter until the 16th of March 1839 under which date there is a marginal order of the Governor on the first mentioned Petition directing the Prefect to report upon its contents; On the 20th of the same month the Prefect of the 1st District reports that in conformity to the Decree of the 28th of December 1837 he had placed the Petitioners provisionally in possession of the land and that the absolute ownership of the land ought to be granted to them from the Morro as far as the boundary of the

155 SD

PAGE 37

37

Citizen Rafael Villa in inciso In seen done
with this report on the 27th day of April 1842
separate grants for one half of the land prayed
for was issued to each of the two Petitioners for
their respective portions that of Olivera being an
open land on the side next to the Portucales of
Moro and the Rancho of Cane's and that of
Feliz next the Arroyo of Cuzumas and the bon-
dary line of Rafael Villa in inciso.

155 SD
PAGE 38

On the 26th day of October 1846 Martin
Olivera by an act of sale duly executed before the
Justice of the Peace according to the forms of
the Mexican Law conveyed all his portion being
one square league, by metes and bounds to the
present Plaintiff, Vicente Feliz having by a
similar conveyance dated November 20th 1845
in like manner alienated his portion to the
same party he thus became invested with the
entire interest of both the grantees in the premises
the original grants and official copies of the
same conveyances are filed in the case and
there are execution properly proved and authen-
ticated.

Both the grants describe the portions
which they convey by metes and bounds and in
the third condition refer to the desambrado maps
contained in the Expediente for a description
of the land granted no such map appears
in the traced copy of that record filed in
the case.

There is an ancient looking paper
filed containing a diagram evidently intended
as a representation of the land but as there is
no proof of its authenticity nor other evidence
connecting it in any manner with the land
claimed it cannot be considered as entitled

38

to any weight in the establishment of the bound-
-aries. This however will present no difficulty to the
Confirmation of the Claim as the descriptions
contained in the grants themselves are suffi-
-cient to segregate the land from the public
domain and give with certainty its location
and boundaries.

155 SD
PAGE 39

These descriptions show that the
land claimed is a range of country lying betw-
-een the Sea Shore and the Sierra and extending
from the Particula del Mons and the Rancho
of Lane on one side to the Arroyo de los Coyotes
and the Rancho of Rapare Villa sumcio on the
other.

The evidence shows the original grantees
were in possession of the land as early as 1841 or
1842 that they then had a house on the land
which they occupied and had also stocks of cattle
and horses and that they and the present claim-
-ant have continued in possession ever since.
This is considered a substantial compliance
with the terms of the grants and in connection
with the other evidence in the case entitles the
Petitioner to a Confirmation of his Claim.

Filed in Office April 14th 1854

Gen Fisher.

Secretary

39

Case No 529
James M Kinley

Decree
of
Confirmation

The United States }
In this case on the merits of the proofs and allegations
it is adjudged by the Commission that the claim
of the Petitioner is valid and it is therefore decreed
that the same be confirmed.

155 SD
PAGE 40

The land of which confir-
mation is made is situated in the County of
San Luis Obispo and is known by the name of
Mons of Cayucos. It is bounded by the
beach of the Ocean and the Sierra and extends
along the beach on the one side and the Sierra on
the other, from the Particula del Mons and the
Rancho of Cami to the Arroyo de los Cayucos
and the boundary line of Rafael Villa Reina
and contains two square leagues a little more
or less.

For a more particular description refer-
ence is to be made to the original papers filed
in the Case

Alphens Felch
Thompson Campbell
R. Aug. Thompson
Commissioners

Filed in Office April 14th 1854.
Geo Fisher
Clerk

Let

155 SD
PAGE 41

And it appearing to the satisfaction of this Board that the land here by adjudication is situated in the Southern District of California it is hereby ordered that two transcripts of the proceedings and of the decision in this case and of the Papers and evidence upon which the same are founded, be made out, and duly certified by the Secretary one of which transcripts shall be filed with the Clerk of the United States District Court for the Southern District of California and the other be transmitted to the Attorney General of the United States

San Francisco Jan^y 29th 1853,
 On this day before Com^r Hiland
 Hall; came Fran^{co} Arce - a witness in
 behalf of the Claimants James McKinley
 petition N^o 529. and was duly sworn,
 his evidence being interpreted by the
 Secretary.

155 SD
 PAGE 42

Deposition of
 Francisco Arce

The U.S. Associate Law Agent was present.

Deposition of Francisco Arce in claim
 N^o 529.

Witness states that his age is
 years, his residence at Santa Clara, what
 he knows the lands granted to Martin Olivera
 & Vicente Felix by the Mexican Government
 that said Olivera and Felix had a house on
 said lands and were occupying it in the
 year 1841 or 42. - that they also had a stock
 of horses & cattle on it - and that said
 grantees & James McKinley the present
 claimants, have had continual possession
 of it to the present time.

Fran^{co} Arce

Service acknowledged

P. Greenburg U.S. Law Agent

sworn & Subscribed

Before me

Hiland Hall Com^r

Filed in Office Jan^y 29th 1853,
 Geo. Fisher
 Sec

Office of the Board of Commissioners,

To ascertain and settle the Private Land Claims in the State of California.

155 SD
PAGE 43

George Fisher, Secretary to
the Board of Commissioners to ascertain and settle the Private
Land Claims in the State of California, do hereby certify the
foregoing *forty* pages, numbered from
1 to *40*, both inclusive, to contain a true, correct and full Tran-
script of the Record of the Proceedings and of the Decision of the
said Board, of the Documentary Evidence and of the Testimony
of the Witnesses, upon which the same is founded, on file in this
Office, in Case No. *529* on the Docket of the said Board,
wherein *James McKinley* is

the Claimant against the United States, for the place known by
the name of "*Bayness*"

In Testimony Whereof, I hereunto set my hand
and affix my private Seal (not having a Seal
of Office) at San Francisco, California, this
thirtieth day of *October*
A. D. *1854*, and of the Independence of the
United States of America the seventy-*ninth*.

Geo. Fisher.



155

U. S. DISTRICT COURT,
Southern District of California.

No. 155. Docket

THE UNITED STATES,

vs. 155

James McKinley,

"Cayucos!"

TRANSCRIPT OF THE RECORD

FROM THE
BOARD OF U. S. LAND COMMISSIONERS,

In Case No. 529.

Filed, *November 8th*, 1854.

J. E. Lane
Clerk.

155

625 1/2 N

Office of the Attorney General of the United States,

Washington, 17th January 1854

155 SD

PAGE 44

James Mc. Kinley }
vs. } 529.
The United States.

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of October 1854, the appeal in the district court of the United States for the Southern district of California will be prosecuted by the United States.

Cushing

Attorney General.

No 155.

U.S. District Court
Southern District,

The United States
vs
James McKinlay

Notice of appeal from atty. Gen.

Filed Feb 24th 1855.

J. C. Fair.
clerk.

155 SD
PAGE 45

Office of the Attorney General of the United States,

Washington, 17th January 1855.

155 SD
PAGE Dup.

James Mc. Kinley }
vs. } 529.
The United States. }

You will please take notice that in the above case, decided by the Commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 30th day of October 1854, the appeal in the district court of the United States for the district of California will be prosecuted by the United States.

Cushing

Attorney General.

155
28

(Duplicate of transcript)

155

In the District Court of the United States for the Southern District of California.

CITY AND COUNTY OF LOS ANGELES--STATE OF CALIFORNIA.



James McKinley, app^t

Docket No. 133

vs

155 SD

The United States, app^t

Transcript No. 529.

PAGE 46

TO THE HON. ISAAC S. K. OGIER, JUDGE :

The Petition of Pacificus Ord, a resident of said City, County, and State, Attorney of the United States for the Southern District of California, who petitions in this behalf for the United States, and being present here in Court, in the name and behalf of the United States, represents as follows: That heretofore, to wit: on or about the 28th day of January A. D. 1853, James McKinley

presented a petition to the Commissioners to ascertain and settle the private land claims in the State of California, when sitting as a Board, claiming a tract of land called Cayucos, and Morro Pituita in the County of San Luis Obispo State of California, which said petition is referred to for a description of the land claimed, a copy of which appears in the transcript hereafter referred to. That thereafter, to wit: on or about the 4th day of April — A. D. 1854, the said Commissioners confirmed, by final decision, the said claim of said petitioner. That thereafter, to wit: on or about the 8th day of November A. D. 1854, a duly certified transcript of the proceedings and decision of the said Commissioners in said cause, and the papers and evidence on which the said decision was founded, was filed in the Office of the Clerk of the District Court of the United States for the Southern District of California, and marked No. 529; reference to which it is prayed may be had and made part of this petition. That on or about the 30th day of October A. D. 1854, the Honorable Caleb Cushing, Attorney-General of the United States, received a duly certified duplicate of said transcript of the proceedings and decision of said Commissioners in said cause, and the papers and

evidence on which said decision was founded. That thereafter, to wit: ^{namely} on the 27th day of February — A. D. 1855, the said Attorney-General of the United States filed, or caused to be filed, in behalf of the United States, a notice with the Clerk of said District Court of the United States, that the appeal in said cause from the said decision of the said Commissioners, in the District Court of the United States for the Southern District of California, would be prosecuted by the United States. Your petitioner further represents, that the land claimed, as aforesaid, is situate in the Southern District of California, and within the jurisdiction of this Honorable Court. Your petitioner further represents and insists, that the said claim is invalid; and the said decision of said Commissioners is erroneous, and ought to be reviewed, reversed and set aside, for many errors and imperfections of law and evidence, apparent in said certified transcript of the proceedings and decisions of said Commissioners in said cause, filed and appealed from as aforesaid. And your petitioner denies all and singular, each and every allegation in the said petition of said claimant, presented as aforesaid to said Commissioners. And your petitioner further denies that the said claimant has any valid right or title to said land claimed as aforesaid, or any part thereof.

155 SD

PAGE 47

And no sufficient proof having been made of the allegations in said petition to said Commissioners, or in support of the said claim, no decision confirming the same should have been made by said Commissioners; but the

said claim should have been rejected by them. And the said claimant, having no valid right or title derived from the Spanish or Mexican Governments, to the land claimed as aforesaid, the lawful right and title in and to the said land was acquired by, and it now belongs to the United States, by virtue of conquest, and the Treaty of peace, friendship, limits and settlement, between the United States and the Republic of Mexico, made at the City of Guadalupe Hidalgo, February 2d, A. D. 1848.

Wherefore, the said Pacificus Ord, Attorney of the United States for the Southern District of California, for and in behalf of the United States, by reason of the premises, and in pursuance of the Act of Congress, entitled "An Act to ascertain and settle the Private Land Claims in the State of California," approved March 3d, A. D. 1851, and the laws and statutes in such case made and provided, prays that the said claimant, or his attorney may be served with a copy of this petition; and that this Honorable Court will review the said decision of said Commissioners, and reverse the same; and decide on the validity of the same, and decree the alleged title to be invalid: with costs and general relief.

155 SD

PAGE 48

J. Ord

Attorney of the United States for
the Southern District of California.

No. 155

U.S. Dist. Court
Southern Dist. of California

James McKinley app^o

vs.

The United States
Appellant

Petition for Review

Filed Nov. 8th 1855

J. E. San
at

155 SD

PAGE 49

J. Ord. U.S. Attorney

United States of America, } SS.
Southern District of California.

TO

The President of the United States,

James McKinley

155 SD
PAGE 50

GREETING:

Take Notice, That a Petition, a copy of which is herewith served upon you, has been filed against you, and each of you, in the District Court of the United States, in and for the Southern District of California, on the *8th* day of *November* in the year of our Lord one thousand eight hundred and fifty-*five* at the City and County of Los Angeles, in said District, by

P. Ord U.S. Atty. praying the Court to review the decision of the U.S. Land Commission confirming your claim to the Rancho called Cayucos and Mono on or about 4th day of April A. D. 1854 and which was appealed to this Court by the U.S. Atty. Genl. on or about the 27th day of February A.D. 1855

and that you, and each of you, are required to appear at said Court, in said City, within ten days after the service hereof, if served on you within the County of Los Angeles, and within twenty days if served on you in the County of San Diego or San Bernardino, and within forty days if served on you in any other County of said State, exclusive of the day of service, and answer said petition, ~~or that judgment by default will be taken against you, and each of you, and the prayer of the said petitioner will be granted, with costs.~~ *the plff. will apply to the Court for the relief demanded therein*

IN WITNESS WHEREOF, I have hereunto set my hand, and affixed the Seal of the said Court, this *ninth* day of *November* in the year of our Lord one thousand eight hundred and fifty-*five* at Los Angeles aforesaid.

J. E. Lee.
Clerk.

Marshal Costs

Copying Summons 60

Leaving - 11 3.00

" Petition 3.00

40 numbers on each

Per fee -

70.00
78.60

No. 155

United States of America,

Southern District of California,

U. S. District Court.

James M Kinley

adv.
#

The United States,

SUMMONS.

Received Nov 9 1855

Edward Hunter

M. A. Washburn

155 SD

PAGE 51

I served this summons along with the proper copy of the petition upon

James M Kinley

at
the

Monteary
24

day of

Nov

in the Southern District of California on

A. D. 1855.

Sworn to and subscribed before me,

Clerk.

E Hunter

Marshal.

Per J Adams
Jury

In the District Court of the United States for the Southern District of California

James M. Kinley
Appellee

Docket No 155

vs
The United States
Appellant

Transcript No 529

155 SD

PAGE 52

Hon J. S. K. Ogier Judge

of the said Court

The said appellee James (M. Kinley) comes by attorney D. S. Gregory and answers the petition heretofore filed on the part of the Appellant by Ford United States District Attorney for the Southern District of California praying that the decision of the Board of United States Land Commissioners to ascertain and settle private Land claims in California may be reviewed and revised and that this court would decree as invalid the title of the said Appellee for the tract of land called "Cayuca's" and "Moro" situated in the County of San Luis Obispo, and more particularly described in the said petition and in the transcript filed in this cause which said transcript the said appellee makes a part of this his answer with leave to refer thereto as often as may be necessary; and for answer says he admits the presentation of his title to, and the confirmation thereof, by the said Land Commissioners as in the said petition alleged and that the said tract of land is within the jurisdiction of this

Court but he, further answering respectfully denies that the said decision of the said Commissioners is erroneous and he says that the same should not be reversed or set aside.

155 SD

PAGE 53

The said appellee further denies the allegation in the said petition for a review, which alleges that his title for the said tract of land is not valid but specifically avers that his said title as copied and shown in the said transcript is a good and valid title, and says that the said decision of the said Commissioners should be affirmed. Wherefore the said James McKinlay prays that the said decision and decree of confirmation of the said United States Land Commissioners may be affirmed by this Court and that his title to the said tract of land may be decreed to be a good and valid title and that he may have such other orders decrees and judgments as may be just, and also his costs in this behalf expended.

D. S. Gregory
Attorney for Appellee.

1000

IN THE OFFICE OF THE SECRETARY

1900

I have served this Answer upon P. Oro U.S.
Writty by delivering to him a Copy of the
same at Los Angeles, January 8th 1856
Edward Hunter
U.S. Marshal
for N. Goodman
Deputy

Henry Amara
\$ 3.00

No. 185-

U.S. District Court,
Southern Dist. California

Amara

James M. Hurlay
Appellee
vs
The United States
Appellant

Filed Jan'y 7 5 1856

J. H. Hall

155 SD
PAGE 54

D. S. Gregory
Att'y for Appellant



James M. Kinley
Appellee
ad.

The United States
Appellant

In the United
States District Court
for the Southern
District of California
No 155-
Transcript no.

On motion of D. J. Guyon, attorney
for Appellee in the above cause -

It is ordered by the Court that
leave be granted to said parties the ap-
pellant & appellee, to take further
testimony in the said cause -

No 155.

James M. Shirley

appellant

v

The United States

Appellant.

U. S. Dist. Court.

Southern District

Order to take further
testimony

Filed Jan'y 10th 1866.
J. E. Swanwick

155 SD
PAGE 56

J. J. Gregory, Atty

James M. Shirley
appellant
The United States
appellant

In the United
States District
Court for the
Southern Dist.
of California.

155 SD

PAGE 57

Case No 15-5-

On application of Counsel
of Appellee in the above entitled cause,
P. O. D. Ingr. United States District Attor-
ney being present, and it satisfactorily
appearing to the Court that the designs
or maps representing the land claimed
in this case, have been omitted in the
transcript filed in this case in reference
to which designs is made in each of
the grants herein & also in the opin-
ion of the Commissioner.

It is therefore
ordered by the Court, that the said trans-
cript, be returned by the Clerk of this
Court, to the Secretary of the Board
of United States Land Commissioners, for
correction in respect to the above
omitted designs or diagrams.

No 15-5

James M. Shirley
appellant

The United States
appellant

U. S. Dist. Court

Southern Dist.

Order to return transcripts

Filed January 17 1856

C. Elam
Clerk

by O'Meara Deput

155 SD

PAGE 58

D. J. Murphy
appellant atty.

James Mc Kinlay } In the United States District
Appellee } Court for the Southern District
vs. } of the State of California.
The United States. } December Term A.D. 1856.
Appellant } No. 155.

155 SD

PAGE 59

The above entitled cause coming to be heard, on appeal from the decision of the Board of Land Commissioners to ascertain and settle private land claims in the State of California, under an act of Congress approved March 3rd. 1857. upon the Transcript of proceedings and decision of said Board and the papers and evidence upon which said decision was founded, all of which have been duly filed, in this Court — and Counsel for the respective parties having been heard in open Court,

It is ordered, adjudged and decreed by the Court, that the decision of the said Commissioners, confirming unto the said James Mc Kinlay, the land described in the said Transcript filed as aforesaid in this cause, be and the same is hereby affirmed — and that the title of the said James Mc Kinlay is a good and valid title for said land.

The lands of which confirmation is hereby made, for one league each, and no more, consist of two separate tracts, both lying in the County of San Luis Obispo County, California. One of which said tracts is known as the "Morro" and is bounded by the parties, of the same name,

~~Morro,~~
of the same name, with Cañe, by the Sierra, the
Sea Beach, and by the Central point of the Arroya
of the Toro to the dairy Cañada (Colindante con
el Potequero del mismo nombre, con Cañe, La
Sierra, La Playa, y el punto Centrico del Terre-
no del Arroya del Toro, a la Cañada de la
Ordeña), provided said quantity of one square
league be within the said boundaries, & if there
be left then said quantity within the said bound-
aries, then said left quantity is hereby confirm-
ed. The other of which said tracts of land
is known as the "Cayacas," is bounded by the
mountains, by the sea beach, by the Central part
of the land of the dairy Cañada, at the Ar-
roya del Toro, (Colindante con La Sierra, con
La Playa, con el punto Centrico del Terreno de
la Cañada de la Ordeña al Arroyo del Toro); pro-
vided the quantity of ~~one~~ square league one
square league be contained within said bound-
aries of said last mentioned (Cayacas')
tract of land, & if there be left then said
quantity within said boundaries, then said
left quantity is hereby confirmed. The
confirmation of which said two parcels of
land, being hereby made according to the
original petitions, expedients, and title papers
for said lands, copies of which are
contained in the transcripts in this
case, & to which reference will be had for a

more particular description of said tracts of
land.

James A. Owen
U.S. Surveyor
for the District of Cal.

155 SD

PAGE 61

No 155

20

United States

vs appellant

Jas. M. Whaley

Appellee

U.S. Dist Court.

Southern Dist. of Cal.

(Duerie)

Filed Dec 29th 1854

155 SD

PAGE 62

Recorded in Page 216

D. S. Gregory atty

155 SD
PAGE 63

California Land Claims.
Attorney General's Office
19 Feby 1857

Sir:

In the case of the claim of
James McKinley, confirmed to
the claimant by the Commissioners,
Case no. five hundred and twenty-
nine, (529), appeal will not be
prosecuted by the United States.
I am,

Respectfully,

Cushing

Pacific M^e Esq
U. S. Attorney,
Los Angeles.

No. 155,

Filed 4. March. 1858.
C. Sims Clerk,
for H. W. Stetson,
Deputy

Office of the Surveyor General of the United States, }
FOR CALIFORNIA. }

155 SD

PAGE 65

I, J. W. MANDEVILLE, United States Surveyor General, for the State of California, do hereby certify that the Rancho "Horo y Cayucus

confirmed to James M. Hinley

has been surveyed by this office, and that the survey and plat was approved by the U. S. Surveyor General, on the 2nd day of May

1861; that I have caused to be published, once a week, for four weeks successively, in two newspapers, to wit: the Santa Barbara Gazette

published in the County of Santa Barbara, State of Calif., being the newspaper published nearest to where the said Rancho is located, the

first publication being on the 2nd day of May 1861, and the last, on the 23rd day of May 1861; also, in the

Los Angeles Star
a newspaper published in the City and County of Los Angeles.

the first publication being on the 11th day of May 1861, and the last on the 1st day of June 1861, a notice

that the said land had been surveyed, and a plat made thereof, and the survey and plat approved by me. And I do further certify, that the said survey and plat were retained in my office during all of said four weeks, and until the expiration thereof, subject to inspection; and I further certify, that no order for the return thereof to the U. S. District Court, has been served upon me.

(L. S.)

In Testimony Whereof, I have hereunto signed my name officially, and caused my Seal of office to be affixed, at the City of San Francisco, this 1st day of June 1861.

J. W. Mandeville
U. S. Surveyor General for California.

U. S. Surveyor's Office
San Francisco, December 18th 1863

I hereby certify the above to be a full true & correct copy

E. J. DeLoe
W. S. Surveyor

No 155

Wm Dunlop
South Dunlop

J. McKimley

The United States

Certif of Suro Seal

Filed Dec 20 1863
J. Whelan clk